

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

IN THE MATTER OF THE SEARCH OF  
REAL PROPERTY LOCATED AT 400  
THOMAS CASTLEBERRY ROAD,  
SHEPHERD, TEXAS 77371

Case No.

**AFFIDAVIT IN SUPPORT OF**  
**AN APPLICATION FOR A SEARCH WARRANT**

I, **JESSE A. LOPEZ**, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the search of a residence, property and surrounding curtilage to include any vehicles and other structures located at **400 THOMAS CASTLEBERRY ROAD, SHEPHERD, TEXAS 77371**. (hereinafter referred to as the, "**TARGET PREMISES**"). The **TARGET PREMISES** is more fully described in Attachment "A".

2. I am a "federal law enforcement officer" within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request a search warrant. I have been employed as a Special Agent with Immigration and Customs Enforcement/Homeland Security Investigations (ICE/HSI) since January 2003. I am currently assigned to HSI Houston, Texas. I have attended a nine-week Criminal Investigator Training Program at the Federal Law Enforcement Training Center. Additionally, I attended the Customs Basic Enforcement School for approximately 8 weeks and received specialized training which included but was not limited to the following subjects: financial crimes, narcotics trafficking, surveillance techniques, customs fraud

and import and export laws. I have additional training in Gang, Immigration and Counter Proliferation Investigations. Additionally, I have been involved in racketeering, weapons and narcotics related investigations. I have participated in the execution, and/or have applied for multiple search and arrest warrants related to fraudulent documents, alien smuggling, firearms and narcotics violations. In the course of conducting or participating in investigations, I have been involved in the use of the following investigative techniques: interviewing informants and cooperating witnesses; conducting physical surveillance; participating in undercover operations, including reverse undercover drug operations; consensual monitoring and recording of both telephonic and non-telephonic communications; analyzing telephone pen register and caller identification system data; conducting court authorized electronic surveillance; and executing search and arrest warrants that have led to seizures of narcotics, firearms, and other contraband.

3. The facts in this affidavit come from my personal knowledge and observations, my training and experience, and information obtained from other agents, law enforcement officers and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of Title 18, United States Code, Sections 545, Importation of unregistered firearms into the United States, contrary to law; and 26, United States Code, Sections 5861(d), Possession of unregistered firearms, Title 18 United States Code, Section 922(g)(1), Felon in Possession of a Firearm, Title 18 United States Code, Section 922(o)(1) Unlawful Possession or transfer of Machinegun, Title 18 United States Code, Sections 922(a)(4) Unlawful to transport in interstate or foreign commerce a Machinegun have been committed, are being committed, and will be committed by Caleb Yates (hereafter "YATES"), or potentially other unknown individual(s).

5. As discussed below, a shipment of “auto switch” devices (which are devices that allow Glock handguns to convert to fire as fully automatic pistols) contained in a United States Postal Service (USPS) Priority Mail parcel addressed to YATES and shipped to the **TARGET PREMISES** was recently intercepted by Customs and Border Protection Officers at the International Mail facility in Chicago, Illinois. Your Affiant proposes to attempt a controlled delivery of the parcel to the **TARGET PREMISES**, which is the listed intended delivery address. If the parcel is accepted by an occupant of the residence at the **TARGET PREMISES** there will be probable cause that inside of the residence at the **TARGET PREMISES**, more particularly described in Attachment “A”, there will be evidence of violations of Title 18, United States Code, Sections 545, import into the United States, any merchandise contrary to law and 26 U.S.C. Section 5861(d), possession of unregistered firearms, amongst other herein described violations.

#### **PROBABLE CAUSE**

6. Your Affiant is aware that Glock Ges.m.b.H and its subsidiaries, hereafter “Glock”, is a firearms manufacturer that designs, manufactures and sells firearms and that Glock handguns are widely sold and available in the United States. Your Affiant is aware through my training and experience that the “auto switch” device referenced herein can be used to convert a Glock handgun into a fully automatic weapon. Your Affiant is aware that the conversion of the firearm to a machine gun requires little technical expertise by removal of the polymer slide and plate and replaced by the “auto switch” device and the process of conversion can take less than 60 seconds to complete and can result of a rate-of-fire of 1100-1200 rounds per minute.

7. Your Affiant is aware that in February 2019, a prior HSI Fresno, California investigation revealed that Amanda Kimmel, a Paralegal for Glock, informed HSI that Glock does not manufacture parts such as the “auto switch” device. Amanda Kimmel also stated that Glock

is aware of such devices offered for sale on internet sites such as Ebay and Glock is working with Ebay to remove those ads as soon as the items are offered for sale. Amanda Kimmel also stated that Glock only produces one model capable of firing in fully automatic with a selector switch that is built as part of the pistol slide, and not as an additional part and that the weapon is only sold directly to law enforcement agencies or branches of the U.S. Military and is considered by Glock to be a highly restricted item.

8. Based upon Your Affiant's training, experience, and discussions with other federal agents related to the investigation of international import-related and National Firearms Act (NFA) violations, Your Affiant is aware of conversion devices, such as the referenced "auto switch" device, that have been designed and created for the sole purpose of converting semi-automatic Glock pistols into fully automatic machineguns. These devices vary by design and appearance but all, when properly installed on a semi-automatic Glock pistol, will allow the firearm to expel more than one projectile by a single pull of the trigger at approximately 1,200 rounds per minute. Your affiant is aware that installation of these conversion devices is fast and simple, requires no technical expertise, and is completed by removing the polymer slide cover plate on a Glock semi-automatic pistol and replacing it with a conversion device. Your Affiant also knows that these devices are referred to by different names, including but not limited to: "switches", "auto sears", "convertors", "conversion switches", "selector switches", "conversion devices", and "Fire Selector Systems for Glock".

9. On or about April 09, 2019, the Customs and Border and Protection (CBP) National Targeting Center in Virginia identified a parcel possibly containing "auto switch" devices. In April, 2019, parcel # LT 528760671CN was identified for examination at the Chicago Mail Facility. The listed shipper on package was Zhou Zheng Lian, Nanhaiqu Street 15NO14 Luocun

Gan Keng Cun, Foshanshi, 528226, China (mainland). The package labeled #LT 528760671CN was addressed to **YATES** at the **TARGET PREMISES** and was listed to contain “spray paint valve”. The parcel was initially targeted based on information provided by the CBP National Targeting Center in Virginia. The shipper of this device was initially identified in March of 2019 and subsequent referrals and exams of parcels from this shipper have resulted in the recovery of “auto switch” devices. Additionally, open source information reveals that these parts are available on e-commerce platforms such as Wish.com and Ebay. The parcel in question was suspected to also contain parts used to convert a Glock semi-automatic pistol to fire in full-automatic mode, which your Affiant knows to be referred to as “auto switch” devices.

10. On April 24, 2019, parcel # LT528760671CN, which is tan in color and measures approximately 6 inches by 6 inches, was presented for inspection and a physical examination by CBP Officers Mark Morell and Beverly Buczek. The inspection of the parcel resulted in the discovery of 1 metal part, gold in color with the “Glock” logo, more specifically as follows:



It is your Affiant's intention that subsequent to the execution of this warrant, the part will be turned over to the Bureau of Alcohol, Tobacco, Firearms and Explosives for a technical examination and test of the "auto switch" device.

11. On May 7, 2019 your affiant was contacted by CBP Officer Morrell and informed about the aforementioned seizure. Your Affiant informed CBP Officer Morrell that HSI Houston would accept the parcel for an attempted controlled delivery. Your affiant is aware that HSI Chicago Special Agent Ben Bauman further coordinated the acceptance of the package for delivery to HSI Houston. On May 10, 2019, Your Affiant received the aforementioned parcel at HSI Houston and the parcel has been held pending a planned controlled delivery as herein described.

12. Your Affiant conducted public records checks for the **SUBJECT PREMISES**, which indicated that Clifford J. & Ruth E. Hite are owners of the **SUBJECT PREMISES**. A criminal history record check returned positive results for **YATES** as a felon who was convicted of Possession of a Controlled Substance on August 12, 2008 and confined to two years imprisonment with the Texas Department of Criminal Justice. A record check with the Texas Department of Public Safety for **YATES** indicated that the **SUBJECT PREMISES** is listed as the address on his valid Texas Driver's license.

13. U.S. Postal Inspectors along with HSI agents, including your Affiant and ATF agents intend to conduct a controlled delivery of the parcel. The original contents of the parcel will be left intact and a transponding device will be placed in the parcel and delivered to the listed address. The transponding device will emit electronic signals that are designed to alert law enforcement if and when the parcel is opened. The transponding device is not a tracking device under the definition of Title 18 United States Code, Section 3117(b). This transponding device will not allow law enforcement to track the location of the parcel or to detect the parcel's

movement once taken inside of the residence located on the **SUBJECT PREMISES**. Visual surveillance will be required to determine whether the parcel is moved into the residence at the **SUBJECT PREMISES**.

14. It is your Affiant's intent that a U.S. Postal Inspector working in an undercover capacity as a USPS mail carrier will attempt to deliver the parcel to the **SUBJECT PREMISES** during the daytime hours authorized by this Court. Other law enforcement officers/agents will be pre-positioned at the **SUBJECT PREMISES** to keep the parcel under surveillance. Visual surveillance of the parcel will continue while the package is accepted. If no one answers at the residence, repeated attempts to complete the controlled delivery will be carried out, following the same methods your Affiant has detailed to you in this affidavit.

15. Your Affiant believes there is probable cause to execute this search warrant once the parcel is delivered to the **SUBJECT PREMISES**. Your Affiant thus requests authority to determine how and when to execute the warrant once the parcel is delivered to the **SUBJECT PREMISES**. Specifically, your Affiant requests authority to deliver the parcel and then monitor transmissions from the transponding device inside the parcel after the parcel has been taken into the **SUBJECT PREMISES** in order to determine when the parcel has been opened. Alternatively, Your Affiant requests authority to execute the search once the parcel is accepted by a responsible party at the **SUBJECT PREMISES** even if the transponding device has not provided an alert due to a technical malfunction. If the parcel is not accepted by an occupant of the **SUBJECT PREMISES** within the time authorized by this Court, it is your Affiant's intent that the search will not be executed, and the parcel will remain in the custody of law enforcement.

16. Based upon your Affiant's training, experience, and discussions with other federal agents related to the investigation of international import-related and NFA violations, your Affiant

knows that ATF considers such conversion devices as machineguns. Apart from official military and law enforcement use, such conversion devices may only be lawfully possessed by licensed Federal Firearms Licensees (FFLs) who have paid the appropriate Special Occupational Tax required of those manufacturing, importing, or dealing in NFA weapons.

17. Based upon your Affiant's training, experience, and discussions with other federal agents related to the investigation of international import-related and NFA violations, your Affiant knows that firearms and ammunition trafficking organizations have developed a number of methods to insulate their illegal activities from law enforcement detection. These methods are common to major firearms and ammunition trafficking organizations to varying degrees of sophistication.

18. Based upon your Affiant's training, experience, and discussions with other federal agents related to the investigation of international import-related and NFA violations, your Affiant knows that illegal firearm and ammunition traffickers often utilize techniques to prevent the detection of firearms that are shipped unlawfully through mail and common carriers by means of falsifying invoices, bills of sale, shipping papers and customs forms by listing the firearms as other items which include, but are not limited to, firearms parts and pieces (rather than firearms) and components utilized in the automotive, industrial, and machinery industries. In addition, illegal firearm traffickers have been known to conceal firearms inside of other objects to avoid detection by law enforcement officials.

19. Based upon your Affiant's training, experience, and discussions with other federal agents related to the investigation of international import-related and NFA violations, your Affiant knows that one key indicator of illegal firearm and ammunition trafficking activity is the use of complex methods for ordering, paying for, and transferring the firearms, firearm components,



and/or ammunition. Your Affiant knows that illegal firearm traffickers utilize payment methods that are often difficult to trace, which include utilizing U.S. currency, money orders, wire-transfers, PayPal accounts and/or pre-paid credit cards held by different subjects. Illegal firearm traffickers utilize these methods to minimize the ability for law enforcement officials to identify the original source of funds by means of compartmentalization.

20. Based upon your Affiant's training, experience, and discussions with other federal agents related to the investigation of international import-related and NFA violations, your Affiant is aware that persons engaged in the illegal firearm and ammunition trafficking activity maintain at their residences, places of business, storage lockers, in their vehicles and other locations under their control, items constituting fruits, instrumentalities, and evidence of their criminal activities and associations. These items can include packaging materials, financial records, personal address/telephone books identifying co-conspirators, large sums of U.S. currency in excess of \$1,000 not immediately traceable to legitimate activity, indicia of control/ownership, and other items incorporated as a part of this affidavit (more particularly described in Attachment "B").

21. Illegal firearm and ammunition trafficking activity often earn substantial cash proceeds that they accumulate or convert to other assets, such as jewelry, vehicles, real estate, bank accounts, or other investments. Financial and business records are often kept for drug dealing activities and/or the accumulation/transformation of illicit proceeds.

22. Individuals involved in the illegal firearm and ammunition trafficking activity will often conceal, illicit firearms, illicit firearm parts, proceeds, documents, and other facilitating property in vehicles, garages, or other buildings located under their control at a location. Such vehicles are often registered in the name of other individuals.

23. Based upon your Affiant's training, experience, and discussions with other federal agents related to the investigation of international import-related and NFA violations, your Affiant knows that individuals involved in illegal firearm and ammunition trafficking activity often store illicit items, proceeds, and other illicit firearms brokering relating property offsite in storage units,

safes and safe deposit boxes. Such individuals often keep records of such locations and or keys to them at their residences or other places under their control.

24. Based upon your Affiant's training, experience, and discussions with other federal agents related to the investigation of international import-related and NFA violations, your Affiant knows that individuals involved in illegal firearm and ammunition trafficking activity often use electronic devices such as cell phones, computers and tablets in furtherance of their firearm and ammunition activities. Such devices are used to communicate with suppliers and customers, and a host of other activities.

### **AUTHORIZATION REQUEST**


25. Based on my training, experience, statements made by other law enforcement agents pertaining to this investigation, and the aforementioned observations and facts as stated in the above paragraphs, I believe that at the time that the aforementioned parcel is delivered there will be probable cause to establish that there are certain items, which constitutes evidence of violations Title 18, United States Code, Section 545, Importation of unregistered firearms into the United States, contrary to law; and 26, United States Code, Section 5861(d), Possession of unregistered firearms, Title 18 United States Code, Section 922(g)(1), Felon in Possession of a Firearm, Title 18 United States Code, Section 922(o)(1) Unlawful Possession or transfer of Machinegun, Title 18 United States Code, Section 922(a)(4) Unlawful to transport in interstate or foreign commerce a Machinegun, that is and will be concealed within the **SUBJECT PREMISES**, as further described in Attachment "A". Those items constituting such evidence are described more fully in Attachment "B" and will include the aforementioned parcel itself and its contents, once delivered to the **SUBJECT PREMISES**.

26. Based on the foregoing, I respectfully submit that there will be probable cause to believe that there will be found at the **SUBJECT PREMISES**, items as described in Attachment "B". For the reasons set forth above, the United States respectfully requests a search warrant for the **SUBJECT PREMISES**, as previously described and therein to search for and seize items as

described in Attachment "B" and respectfully requests that said warrant be issued prior to the aforementioned parcel delivery takes place.

WHEREFORE, affiant requests that a warrant be issued pursuant to Rule 41 of the Federal Rules of Criminal Procedure, to search the premises as previously described and further described in Attachment "A" and seize items listed in Attachment "B".

Respectfully submitted,

  
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JESSE A. LOPEZ  
Special Agent  
Homeland Security Investigations

Subscribed and sworn to before me on May 21, 2019

  
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UNITED STATES MAGISTRATE JUDGE

## ATTACHMENT A

### Property to Be Searched

#### 400 Thomas Castleberry Road, Shepherd, Texas

The entire premises, referred to as **SUBJECT PREMISES**, located at 400 Thomas Castleberry Road, Shepherd, Texas, including any other structure and any vehicles parked on the premises. The premises at 400 Thomas Castleberry Road, Shepherd, Texas is located at the south side of Thomas Castleberry Road. The premises at 400 Thomas Castleberry Road, Shepherd, Texas is a single story, siding and wood residential structure. The front door faces south and is white in color. The numbers "400" appear in a white rectangular sign with dark numbers that are attached above the front porch. There is a storage shed/structure positioned next to the rear of the house.



## **ATTACHMENT B**

### **Particular Things to be Seized**

Your Affiant seeks to obtain the following property:

- a. Firearms, including but not limited to handguns, pistols, revolvers, rifles, shotguns and other weapons;
- b. Firearms paraphernalia to include but not limited to ammunition or magazines;
- c. Cell phones which may have been used by Caleb Yates or other unknown individual(s) to purchase, sell or transport firearms or firearm parts;
- d. Tablet or tablet like device which may have been used by Caleb Yates or other unknown individual(s) to purchase, sell or transport firearms or firearm parts;
- e. Computers which may have been used by Caleb Yates or other unknown individual(s) to purchase, sell or transport firearms or firearm parts;
- f. Any type of conversion device that can be utilized to convert a semi-automatic firearm to a fully automatic firearm, including the parcel to be delivered and its' contents as listed in the affidavit;
- g. Any proceeds, including currency and any documentation regarding proceeds, which may be stored in a locked container, including keys to storage units;
- h. Documents, bills of sale, receipts related to any firearms purchase or the purchase of any conversion devices as described in the affidavit.